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## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Office of the Secretary**

**21 CFR Ch. I**

**25 CFR Ch. V**

**42 CFR Chs. I-V**

**45 CFR Subtitle A; Subtitle B, Chs. II, III, and XIII**

### **Regulatory Agenda**

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Semiannual Regulatory Agenda

**SUMMARY:** The Regulatory Flexibility Act of 1980 and Executive Order 12866 require the Department semiannually to issue an inventory of rulemaking actions under development to provide the public a summary of forthcoming regulatory actions. This information will help the public more effectively participate in the Department's regulatory activity, and the Department welcomes comments on any aspect of this agenda.

**FOR FURTHER INFORMATION CONTACT:** Jennifer M. Cannistra, Executive Secretary, Department of Health and Human Services, Washington, DC 20201.

**SUPPLEMENTARY INFORMATION:** The Department of Health and Human Services (HHS) is the Federal Government's principal agency for protecting the health of all Americans and providing essential human services, especially for those who are least able to help themselves. The mission of HHS is to enhance the health and well-being of Americans by providing for effective health and human services and by fostering sound, sustained advances in the sciences underlying medicine, public health, and social services. This agenda presents the rulemaking activities that the Department expects to undertake in the foreseeable future to advance this mission. The agenda furthers several Departmental goals, including strengthening health care; advancing scientific knowledge and innovation; advancing the health, safety, and well-being of the American people; increasing efficiency, transparency, and accountability of HHS programs; and strengthening the Nation's health and human services infrastructure and workforce.

The purpose of the agenda is to encourage more effective public participation in the regulatory process. HHS is currently furthering this goal by engaging in a Department-wide effort to identify ways to make the rulemaking process more accessible to the general public. This effort is in response to President Obama's January 18, 2011, Executive Order 13563, "Improving Regulation and Regulatory Review," which requires ongoing retrospective review of current agency regulations and encourages Federal agencies to develop balanced regulations through a process that "allows for public participation and an open exchange of ideas." HHS's efforts include continuing to update its main regulatory website to highlight useful information for the public, such as HHS rules currently open for public comment, and actively encouraging meaningful public participation in retrospective review and rulemaking through education and outreach.

The rulemaking abstracts included in this paper issue of the **Federal Register** only cover, as required by the Regulatory Flexibility Act of 1980, those prospective HHS rulemakings likely to have a significant

economic impact on a substantial number of small entities. The Department's complete Regulatory Agenda is accessible online at [www.reginfo.gov](http://www.reginfo.gov) in an interactive format that offers users enhanced capabilities to obtain information from the agenda's database.

**Dated: August 30, 2012.**

**NAME: Jennifer M. Cannistra,**

*Executive Secretary to the Department.*

#### Substance Abuse and Mental Health Services Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
265	Opioid Drugs in Maintenance or Detoxification Treatment of Opiate Addiction ( <b>Completion of a Section 610 Review</b> )	0930-AA14

#### Centers for Disease Control and Prevention—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
266	Establishment of Minimum Standards for Birth Certificates	0920-AA46

#### Food and Drug Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
267	Over-the-Counter (OTC) Drug Review—Sunscreen Products	0910–AF43

### Food and Drug Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
268	Food Labeling; Revision of the Nutrition and Supplement Facts Labels	0910–AF22
269	Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed in One Eating Occasion; Dual Column Labeling; and Modifying the Reference Amounts Customarily Consumed	0910–AF23
270	Over-the-Counter (OTC) Drug Review—Cough/Cold (Antihistamine) Products	0910–AF31
271	Over-the-Counter (OTC) Drug Review—Internal Analgesic Products	0910–AF36
272	Over-the-Counter (OTC) Drug Review—Topical Antimicrobial Drug Products	0910–AF69
273	Laser Products; Amendment to Performance Standard	0910–AF87
274	Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Food for Animals <b>(Reg Plan Seq No. 33)</b>	0910–AG10
275	Over-the-Counter (OTC) Drug Review—Pediatric Dosing for Cough/Cold Products	0910–AG12
276	Electronic Distribution of Prescribing Information for Human	0910–AG18

	Drugs Including Biological Products	
277	Produce Safety Regulation ( <b>Reg Plan Seq No. 34</b> )	0910–AG35
278	Hazard Analysis and Risk-Based Preventive Controls ( <b>Reg Plan Seq No. 35</b> )	0910–AG36
279	“Tobacco Products” Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act	0910–AG38
280	General Hospital and Personal Use Devices: Issuance of Draft Special Controls Guidance for Infusion Pumps	0910–AG54
281	Requirements for the Testing and Reporting of Tobacco Product Constituents, Ingredients, and Additives	0910–AG59
282	Amendments to the Current Good Manufacturing Practice Regulations for Finished Pharmaceuticals—Components	0910–AG70
283	Use of Symbols in Labeling	0910–AG74
284	Requirements for the Submission of Data Needed to Calculate User Fees for Manufacturers and Importers of Tobacco Products	0910–AG81
285	Food Labeling: Hard Candies and Breath Mints	0910–AG82
286	Food Labeling: Serving Sizes; Reference Amounts for Candies	0910–AG83

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

### Food and Drug Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
287	Infant Formula: Current Good Manufacturing Practices; Quality Control Procedures; Notification Requirements; Records and Reports; and Quality Factors	0910–AF27

288	Over-the-Counter (OTC) Drug Review—Cough/Cold (Combination) Products	0910–AF33
289	Unique Device Identification ( <b>Reg Plan Seq No. 39</b> )	0910–AG31
290	Food Labeling: Nutrition Labeling for Food Sold in Vending Machines ( <b>Reg Plan Seq No. 40</b> )	0910–AG56
291	Food Labeling: Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments ( <b>Reg Plan Seq No. 41</b> )	0910–AG57

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

### Food and Drug Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
292	Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures ( <b>Section 610 Review</b> )	0910–AG14

### Food and Drug Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
293	Electronic Submission of Data From Studies Evaluating Human Drugs and Biologics	0910–AC52

### Centers for Medicare & Medicaid Services—Proposed Rule Stage

Sequence	Title	Regulation
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Number		Identifier Number
294	Emergency Preparedness Requirements for Medicare Participating Providers and Suppliers (CMS-3178-P) ( <b>Section 610 Review</b> )	0938–AO91
295	Changes to the Hospital Inpatient and Long-Term Care Prospective Payment System for FY 2014 (CMS-1599-P) ( <b>Reg Plan Seq No. 45</b> )	0938–AR53
296	Changes to the Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System for CY 2014 (CMS-1601-P) ( <b>Reg Plan Seq No. 46</b> )	0938–AR54
297	Revisions to Payment Policies Under the Physician Fee Schedule and Medicare Part B for CY 2014 (CMS-1600-P) ( <b>Reg Plan Seq No. 47</b> )	0938–AR56
298	Prospective Payment System for Federally Qualified Health Centers (FQHCs) (CMS-1443-P) ( <b>Section 610 Review</b> ) ( <b>Reg Plan Seq No. 48</b> )	0938–AR62

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

#### Centers for Medicare & Medicaid Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
299	Covered Outpatient Drugs (CMS-2345-F) ( <b>Section 610 Review</b> )	0938–AQ41

#### Centers for Medicare & Medicaid Services—Long-Term Actions

Sequence	Title	Regulation
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Number		Identifier Number
300	Transparency Reports and Reporting of Physician Ownership of Investment Interests (CMS-5060-F)	0938–AR33

### Centers for Medicare & Medicaid Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
301	Administrative Simplification: Standard Unique Identifier for Health Plans and ICD-10 Compliance Date Delay (CMS-0040-F) <b>(Completion of a Section 610 Review)</b>	0938–AQ13
302	Medicare and Medicaid Electronic Health Record Incentive Program—Stage 2 (CMS-0044-F)	0938–AQ84
303	Proposed Changes to Hospital OPPS and CY 2013 Payment Rates; ASC Payment System and CY 2013 Payment Rates (CMS-1589-FC) <b>(Completion of a Section 610 Review)</b>	0938–AR10
304	Revisions to Payment Policies Under the Physician Fee Schedule and Part B for CY 2013 (CMS-1590-FC) <b>(Completion of a Section 610 Review)</b>	0938–AR11
305	Changes to the Hospital Inpatient and Long-Term Care Prospective Payment Systems for FY 2013 (CMS-1588-F) <b>(Completion of a Section 610 Review)</b>	0938–AR12
306	Home Health Prospective Payment System Rate for CY 2013 (CMS-1358-F) <b>(Completion of a Section 610 Review)</b>	0938–AR18



<b>Department of Health and Human Services (HHS)</b>	<b>Completed Actions</b>
<b>Substance Abuse and Mental Health Services Administration (SAMHSA)</b>	

## **265. OPIOID DRUGS IN MAINTENANCE OR DETOXIFICATION TREATMENT OF OPIATE**

### **ADDICTION (COMPLETION OF A SECTION 610 REVIEW)**

**Legal Authority:** 21 USC 823 (9); 42 USC 257a; 42 USC 290aa(d); 42 USC 290dd-2; 42 USC 300x-23; 42 USC 300x-27(a); 42 USC 300y-11

**Abstract:** This rule would amend the Federal opioid treatment program regulations. It would modify the dispensing requirements for buprenorphine and buprenorphine combination products that are approved by the Food and Drug Administration (FDA) for opioid dependence and used in federally certified and registered opioid treatment programs. In particular, this rule would allow opioid treatment programs more flexibility in dispensing take-home supplies of buprenorphine after the assessment and documentation of patients' responsibility and stability to receive opioid addiction treatment medication.

#### **Timetable:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
NPRM	06/19/09	74 FR 29153
NPRM Comment Period End	08/18/09	
Final Action	12/06/12	77 FR 72752

**Regulatory Flexibility Analysis Required:** No

**Agency Contact:** Nicholas Reuter, Supervising Public Health Advisor, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Suite 2-1063, One Choke Cherry Road, Rockville, MD 20857

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**RIN:** 0930-AA14

<b>Department of Health and Human Services (HHS)</b>	<b>Proposed Rule Stage</b>
<b>Centers for Disease Control and Prevention (CDC)</b>	

#### **266. ESTABLISHMENT OF MINIMUM STANDARDS FOR BIRTH CERTIFICATES**

**Legal Authority:** 42 USC 264

**Abstract:** This proposed rule establishes minimum standards to improve security related to the use of birth certificates by Federal agencies for official purposes.

**Timetable:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
NPRM	03/00/13	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Charles Rothwell, Director, Division of Vital Statistics, Department of Health and Human Services, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 7311, M, Hyattsville, MD 20782

Phone: 301 458–4555

**RIN:** 0920–AA46

<b>Department of Health and Human Services (HHS)</b>	<b>Prerule Stage</b>
<b>Food and Drug Administration (FDA)</b>	

#### **267. OVER-THE-COUNTER (OTC) DRUG REVIEW—SUNSCREEN PRODUCTS**

**Legal Authority:** 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

**Abstract:** The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application,

may be legally marketed. The first of the future actions will address the safety of sunscreen active ingredients. The second of the future actions will address active ingredients reviewed under time and extent applications.

**Timetable:**

Action	Date	FR Cite
ANPRM (Sunscreen and Insect Repellent)	02/22/07	72 FR 7941
ANPRM Comment Period End	05/23/07	
NPRM (UVA/UVB)	08/27/07	72 FR 49070
NPRM Comment Period End	12/26/07	
Final Action (UVA/UVB)	06/17/11	76 FR 35620
NPRM (Effectiveness)	06/17/11	76 FR 35672
NPRM (Effectiveness) Comment Period End	09/15/11	
ANPRM (Dosage Forms)	06/17/11	76 FR 35669
ANPRM (Dosage Forms) Comment Period End	09/15/11	
ANPRM (Safety)	07/00/13	
NPRM (Time and Extent Applications)	09/00/13	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** David Eng, Regulatory Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5487, 10903 New Hampshire Avenue, Silver Spring, MD 20993  
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<b>Department of Health and Human Services (HHS)</b>	<b>Proposed Rule Stage</b>
<b>Food and Drug Administration (FDA)</b>	

## 268. FOOD LABELING; REVISION OF THE NUTRITION AND SUPPLEMENT FACTS LABELS

**Legal Authority:** 21 USC 321; 21 USC 343; 21 USC 371

**Abstract:** FDA is proposing to amend the labeling regulations for conventional foods and dietary supplements to provide updated nutrition information on the label to assist consumers in maintaining healthy dietary practices. If finalized, this rule will modernize the nutrition information found on the Nutrition Facts label, as well as the format and appearance of the label.

### Timetable:

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
ANPRM	07/11/03	68 FR 41507
ANPRM Comment Period End	10/09/03	
ANPRM	04/04/05	70 FR 17008
ANPRM Comment Period End	06/20/05	
ANPRM	11/02/07	72 FR 62149
ANPRM Comment Period End	01/31/08	
NPRM	02/00/13	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Blakeley Fitzpatrick, Interdisciplinary Scientist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS–830), HFS–830, 5100 Paint Branch Parkway, College Park, MD 20740

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**RIN:** 0910–AF22

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**269. FOOD LABELING: SERVING SIZES OF FOODS THAT CAN REASONABLY BE CONSUMED IN ONE EATING OCCASION; DUAL COLUMN LABELING; AND MODIFYING THE REFERENCE AMOUNTS CUSTOMARILY CONSUMED**

**Legal Authority:** 21 USC 321; 21 USC 343; 21 USC 371

**Abstract:** FDA is proposing to amend its labeling regulations for foods to provide updated Reference Amounts Customarily Consumed (RACCs) for certain food categories. If finalized, this rule would provide consumers with nutrition information based on the amount of food that is customarily consumed, which would assist consumers in maintaining healthy dietary practices. In addition to updating certain RACCs, FDA is also considering amending the definition of single-serving containers and providing for dual-column labeling, which would provide nutrition information per serving and per container, for certain containers.

**Timetable:**

Action	Date	FR Cite
ANPRM	04/04/05	70 FR 17010
ANPRM Comment Period End	06/20/05	
NPRM	02/00/13	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Cherisa Henderson, Nutritionist, Department of Health and Human Services, Food and Drug Administration, HFS–830, 5100 Paint Branch Parkway, College Park, MD 20740

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**RIN:** 0910–AF23

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## 270. OVER-THE-COUNTER (OTC) DRUG REVIEW—COUGH/COLD (ANTIHISTAMINE) PRODUCTS

**Legal Authority:** 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

**Abstract:** FDA will be proposing a rule to add the common cold indication to certain over-the-counter (OTC) antihistamine active ingredients. This proposed rule is the result of collaboration under the U.S.-Canada Regulatory Cooperation Council (RCC). The objectives of the RCC monograph alignment working group are to conduct a pilot program to develop aligned monograph elements for a selected over-the-counter (OTC) drug category (e.g., aligned directions, warnings, indications, and conditions of use) and subsequently, develop recommendations to determine the feasibility of an ongoing mechanism for alignment in review and adoption of these OTC drug monograph elements.

**Timetable:**

Action	Date	FR Cite
Reopening of Administrative Record	08/25/00	65 FR 51780
Comment Period End	11/24/00	
NPRM (Amendment) (Common Cold)	06/00/13	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Mary Chung, Regulatory Health Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5488, 10903 New Hampshire Avenue, Silver Spring, MD 20993

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**RIN:** 0910–AF31

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## 271. OVER-THE-COUNTER (OTC) DRUG REVIEW—INTERNAL ANALGESIC PRODUCTS

**Legal Authority:** 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379e

**Abstract:** The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The first action addresses acetaminophen safety. The second action addresses products marketed for children under 2 years old and weight- and age-based dosing for children's products.

**Timetable:**

Action	Date	FR Cite
NPRM (Amendment) (Required Warnings and Other Labeling)	12/26/06	71 FR 77314
NPRM Comment Period End	05/25/07	
Final Action (Required Warnings and Other Labeling)	04/29/09	74 FR 19385
Final Action (Correction)	06/30/09	74 FR 31177
Final Action (Technical Amendment)	11/25/09	74 FR 61512
NPRM (Amendment) (Acetaminophen)	08/00/13	
NPRM (Amendment) (Pediatric)	12/00/13	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Mary Chung, Regulatory Health Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5488, 10903 New Hampshire Avenue, Silver Spring, MD 20993

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**RIN:** 0910–AF36

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## **272. OVER-THE-COUNTER (OTC) DRUG REVIEW—TOPICAL ANTIMICROBIAL DRUG PRODUCTS**

**Legal Authority:** 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

**Abstract:** The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The first action addresses consumer hand wash products. The second action addresses consumer leave-on antiseptic products.

### **Timetable:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
NPRM (Healthcare)	06/17/94	59 FR 31402
Comment Period End	12/15/95	
NPRM (Consumer Hand Wash Products)	02/00/13	
NPRM (Consumer Leave-on Products)	07/00/13	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** David Eng, Regulatory Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5487, 10903 New Hampshire Avenue, Silver Spring, MD 20993

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RIN: 0910–AF69

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### **273. LASER PRODUCTS; AMENDMENT TO PERFORMANCE STANDARD**

**Legal Authority:** 21 USC 360hh to 360ss; 21 USC 371; 21 USC 393

**Abstract:** FDA is proposing to amend the performance standard for laser products to achieve closer harmonization between the current standard and the International Electrotechnical Commission (IEC) standard for laser products and medical laser products. The proposed amendment is intended to update FDA's performance standard to reflect advancements in technology.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/12	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Nancy Pirt, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, WO 66, Room 4438, 10903 New Hampshire Avenue, Silver Spring, MD 20993

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RIN: 0910–AF87

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### **274. CURRENT GOOD MANUFACTURING PRACTICE, HAZARD ANALYSIS, AND RISK–BASED PREVENTIVE CONTROLS FOR FOOD FOR ANIMALS**

**Regulatory Plan:** This entry is Seq. No. 33 in part II of this issue of the **Federal Register**.

RIN: 0910–AG10

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### **275. OVER–THE–COUNTER (OTC) DRUG REVIEW—PEDIATRIC DOSING FOR COUGH/COLD PRODUCTS**

**Legal Authority:** 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

**Abstract:** The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action will propose changes to the final monograph to address safety and efficacy issues associated with pediatric cough and cold products.

**Timetable:**

Action	Date	FR Cite
NPRM	06/00/13	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Mary Chung, Regulatory Health Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5488, 10903 New Hampshire Avenue, Silver Spring, MD 20993

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**RIN:** 0910–AG12

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## **276. ELECTRONIC DISTRIBUTION OF PRESCRIBING INFORMATION FOR HUMAN DRUGS INCLUDING BIOLOGICAL PRODUCTS**

**Legal Authority:** 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264

**Abstract:** This rule would require electronic package inserts for human drug and biological prescription products with limited exceptions, in lieu of paper, which is currently used. These inserts contain prescribing information intended for healthcare practitioners. This would ensure that the information accompanying the product is the most up-to-date information regarding important safety and efficacy issues about these products.

**Timetable:**

Action	Date	FR Cite
NPRM	06/00/13	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Megan Clark–Velez, Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy, WO 32, Room 4249, 10903 New Hampshire Avenue, Silver Spring, MD 20993

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**RIN:** 0910–AG18

## 277. PRODUCE SAFETY REGULATION

**Regulatory Plan:** This entry is Seq. No. 34 in part II of this issue of the **Federal Register**.

**RIN:** 0910–AG35

## 278. HAZARD ANALYSIS AND RISK–BASED PREVENTIVE CONTROLS

**Regulatory Plan:** This entry is Seq. No. 35 in part II of this issue of the **Federal Register**.

**RIN:** 0910–AG36

## 279. “TOBACCO PRODUCTS” SUBJECT TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT, AS AMENDED BY THE FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

**Legal Authority:** 21 USC 301 et seq, The Federal Food, Drug, and Cosmetic Act; PL 111–31, The Family Smoking Prevention and Tobacco Control Act

**Abstract:** The Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) provides the Food and Drug Administration (FDA) authority to regulate cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco. The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Tobacco Control Act, permits FDA to issue regulations deeming other tobacco products to be subject to the FD&C Act. This proposed rule would deem products meeting the statutory definition of “tobacco product” to be subject to the FD&C Act and would specify additional restrictions.

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/13	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** May Nelson, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, 9200 Corporate Boulevard, Rockville, MD 20850

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**RIN:** 0910–AG38

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**280. GENERAL HOSPITAL AND PERSONAL USE DEVICES: ISSUANCE OF DRAFT SPECIAL CONTROLS GUIDANCE FOR INFUSION PUMPS**

**Legal Authority:** 21 USC 351; 21 USC 360; 21 USC 360c; 21 USC 360e; 21 USC 360j; 21 USC 371

**Abstract:** FDA is proposing to amend the classification of infusion pumps from class II (performance standards) to class II (special controls). FDA is taking this action to provide reasonable assurance of the safety and effectiveness of these devices.

**Timetable:**

Action	Date	FR Cite
NPRM	03/00/13	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Nancy Pirt, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, WO 66 Room 4438, 10903 New

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**RIN:** 0910–AG54

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## **281. REQUIREMENTS FOR THE TESTING AND REPORTING OF TOBACCO PRODUCT CONSTITUENTS, INGREDIENTS, AND ADDITIVES**

**Legal Authority:** 21 USC 301 et seq, 21 USC 387, The Family Smoking Prevention and Tobacco Control Act

**Abstract:** The Federal Food, Drug, and Cosmetic Act, as amended by the Family Smoking Prevention and Tobacco Control Act, requires the Food and Drug Administration to promulgate regulations that require the testing and reporting of tobacco product constituents, ingredients, and additives, including smoke constituents, that the agency determines should be tested to protect the public health.

**Timetable:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
NPRM	04/00/13	
NPRM Comment Period End	06/00/13	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Carol Drew, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, 9200 Corporate Boulevard, Room 240 H, Rockville, MD 20850

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**RIN:** 0910–AG59

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## **282. AMENDMENTS TO THE CURRENT GOOD MANUFACTURING PRACTICE REGULATIONS FOR FINISHED PHARMACEUTICALS—COMPONENTS**

**Legal Authority:** 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 371; 21 USC 374; 42 USC 262; 42 USC 264

**Abstract:** This rule proposes to amend regulations regarding the control over components used in manufacturing finished pharmaceuticals.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/13	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0910–AG70

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**283. USE OF SYMBOLS IN LABELING**

**Legal Authority:** sec 502(c) of the Food Drug and Cosmetic Act (FD&C Act), 21 USC 352(c); sec 514(c) of FD&C Act, 21 USC 360d(c), enacted by the Food and Drug Modernization Act of 1997 (FDAMA)

**Abstract:** The purpose of this proposed rule is to implement section 502(c) of the FD&C Act and to revise 21 CFR 801.15 (prominence of required label statements) using the authority under section 514(c) of the FD&C Act to allow for the inclusion of certain standardized symbols recognized by FDA for use on the labeling of medical devices. If this proposed rule is finalized, certain symbols in compliance with International Standards Organization (ISO) Standard 15223 may be used in medical device labeling with explanatory text or symbols glossary with accompanying labeling, as may other standardized symbols in the future when adopted by a national or international standards development organization and if recognized by FDA guidance or other regulatory action.

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/13	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0910–AG74

## **284. REQUIREMENTS FOR THE SUBMISSION OF DATA NEEDED TO CALCULATE USER FEES FOR MANUFACTURERS AND IMPORTERS OF TOBACCO PRODUCTS**

**Legal Authority:** 21 USC 371; 21 USC 387s; PL111–31

**Abstract:** FDA is proposing to require manufacturers and importers of tobacco products to submit certain market share data to FDA. USDA currently collects such data, but its program sunsets at the end of September 2014 and USDA will cease collection of this information. FDA is taking this action so that it may continue to calculate market share percentages needed to compute user fees.

### **Timetable:**

Action	Date	FR Cite
NPRM	02/00/13	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Annette L. Marthaler, Regulatory Counsel, Department of Health and Human Services,  
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**RIN:** 0910–AG81

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## **285. FOOD LABELING: HARD CANDIES AND BREATH MINTS**

**Legal Authority:** 21 USC 321; 21 USC 343; 21 USC 371

**Abstract:** FDA is proposing to change the nutrition label serving size for breath mints to one mint. FDA is taking this action in response to comments received on an advance notice of proposed rulemaking published in 2005.

**Timetable:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
NPRM	12/30/97	62 FR 67775
NPRM Comment Period End	03/16/98	
ANPRM	04/05/05	70 FR 17010
ANPRM Comment Period End	06/20/05	
NPRM	02/00/13	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0910-AG82

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## **286. FOOD LABELING: SERVING SIZES; REFERENCE AMOUNTS FOR CANDIES**

**Legal Authority:** 21 USC 321; 21 USC 343; 21 USC 371

**Abstract:** FDA is proposing to change its serving size regulations to provide updated Reference Amounts Customarily Consumed for candies. FDA is taking this action in response to comments received on an advance notice of proposed rulemaking published in 2005.

**Timetable:**



Action	Date	FR Cite
NPRM	01/08/98	63 FR 1078
NPRM Comment Period End	02/09/98	
ANPRM	04/05/05	70 FR 17010
ANPRM Comment Period End	06/20/05	
NPRM	02/00/13	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0910-AG83

<b>Department of Health and Human Services (HHS)</b>	<b>Final Rule Stage</b>
<b>Food and Drug Administration (FDA)</b>	

**287. INFANT FORMULA: CURRENT GOOD MANUFACTURING PRACTICES; QUALITY CONTROL PROCEDURES; NOTIFICATION REQUIREMENTS; RECORDS AND REPORTS; AND QUALITY FACTORS**

**Legal Authority:** 21 USC 321; 21 USC 342; 21 USC 350a; 21 USC 371

**Abstract:** The Food and Drug Administration (FDA) is revising its infant formula regulations in 21 CFR parts 106 and 107 to establish requirements for current good manufacturing practices (CGMP), including audits; to establish requirements for quality factors; and to amend FDA's quality control procedures, notification, and record and reporting requirements for infant formula. FDA is taking this action to improve the protection of infants who consume infant formula products.

**Timetable:**

Action	Date	FR Cite
NPRM	07/09/96	61 FR 36154
NPRM Comment Period End	12/06/96	
NPRM Comment Period Reopened	04/28/03	68 FR 22341
NPRM Comment Period Extended	06/27/03	68 FR 38247
NPRM Comment Period End	08/26/03	
NPRM Comment Period Reopened	08/01/06	71 FR 43392
NPRM Comment Period End	09/15/06	
Final Rule	04/00/13	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Benson Silverman, Staff Director, Infant Formula and Medical Foods, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-850), 5100 Paint Branch Parkway, College Park, MD 20740

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**RIN:** 0910-AF27

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**288. OVER-THE-COUNTER (OTC) DRUG REVIEW—COUGH/COLD (COMBINATION) PRODUCTS**

**Legal Authority:** 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

**Abstract:** The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action addresses cough/cold drug products containing an oral

bronchodilator (ephedrine and its salts) in combination with any expectorant or any oral nasal decongestant.

**Timetable:**

Action	Date	FR Cite
NPRM (Amendment)	07/13/05	70 FR 40232
NPRM Comment Period End	11/10/05	
Final Action (Technical Amendment)	03/19/07	72 FR 12730
Final Action	03/00/13	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0910–AF33

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## **289. UNIQUE DEVICE IDENTIFICATION**

**Regulatory Plan:** This entry is Seq. No. 39 in part II of this issue of the **Federal Register**.

**RIN:** 0910–AG31

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## **290. FOOD LABELING: NUTRITION LABELING FOR FOOD SOLD IN VENDING MACHINES**

**Regulatory Plan:** This entry is Seq. No. 40 in part II of this issue of the **Federal Register**.

**RIN:** 0910–AG56

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## **291. FOOD LABELING: NUTRITION LABELING OF STANDARD MENU ITEMS IN RESTAURANTS AND SIMILAR RETAIL FOOD ESTABLISHMENTS**

**Regulatory Plan:** This entry is Seq. No. 41 in part II of this issue of the **Federal Register**.

**RIN:** 0910–AG57

<b>Department of Health and Human Services (HHS)</b>	<b>Long-Term Actions</b>
<b>Food and Drug Administration (FDA)</b>	

**292. PRESCRIPTION DRUG MARKETING ACT OF 1987; PRESCRIPTION DRUG AMENDMENTS OF 1992; POLICIES, REQUIREMENTS, AND ADMINISTRATIVE PROCEDURES (SECTION 610 REVIEW)**

**Legal Authority:** 21 USC 331; 21 USC 333; 21 USC 351 to 353; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 381

**Abstract:** FDA is currently reviewing regulations promulgated under the Prescription Drug Marketing Act (PDMA). FDA is undertaking this review to determine whether the regulations should be changed or rescinded to minimize adverse impacts on a substantial number of small entities. FDA has extended again the completion date by 1 year and will complete the review by December 2013.

**Timetable:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
Begin Review of Current Regulation	11/24/08	
End Review of Current Regulation	12/00/13	

**Regulatory Flexibility Analysis Required:** Yes

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Phone: 301 796–3601  
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Email: [pdma610\(c\)review@fda.hhs.gov](mailto:pdma610(c)review@fda.hhs.gov)

**RIN:** 0910–AG14

<b>Department of Health and Human Services (HHS)</b>	<b>Completed Actions</b>
<b>Food and Drug Administration (FDA)</b>	

**293. ELECTRONIC SUBMISSION OF DATA FROM STUDIES EVALUATING HUMAN DRUGS AND BIOLOGICS**

**Legal Authority:** 21 USC 355; 21 USC 371; 42 USC 262

**Abstract:** The Food and Drug Administration is proposing to amend the regulations governing the format in which clinical study data and bioequivalence data are required to be submitted for new drug applications (NDAs), biological license applications (BLAs), and abbreviated new drug applications (ANDAs). The proposal would revise our regulations to require that data submitted for NDAs, BLAs, and ANDAs, and their supplements and amendments, be provided in an electronic format that FDA can process, review, and archive.

**Timetable:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
Withdrawn	08/01/12	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0910–AC52

<b>Department of Health and Human Services (HHS)</b>	<b>Proposed Rule Stage</b>
<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>	

**294. EMERGENCY PREPAREDNESS REQUIREMENTS FOR MEDICARE PARTICIPATING PROVIDERS AND SUPPLIERS (CMS–3178–P) (SECTION 610 REVIEW)**

**Legal Authority:** 42 USC 1821; 42 USC 1861 (ff) (3)(B)(i)(ii); 42 USC 1913 (c)(1) et al

**Abstract:** This rule proposes emergency preparedness requirements for Medicare and Medicaid participating providers and suppliers to ensure that they adequately plan for both natural and man-made disasters and coordinate with Federal, state, tribal, regional and local emergency preparedness systems. This rule will ensure providers and suppliers are adequately prepared to meet the needs of patients, residents, clients, and participants during disasters and emergency situations.

**Timetable:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
NPRM	07/00/13	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0938–AO91

**295. • CHANGES TO THE HOSPITAL INPATIENT AND LONG–TERM CARE PROSPECTIVE PAYMENT SYSTEM FOR FY 2014 (CMS–1599–P)**

**Regulatory Plan:** This entry is Seq. No. 45 in part II of this issue of the **Federal Register**.

**RIN:** 0938–AR53

**296. • CHANGES TO THE HOSPITAL OUTPATIENT PROSPECTIVE PAYMENT SYSTEM AND AMBULATORY SURGICAL CENTER PAYMENT SYSTEM FOR CY 2014 (CMS–1601–P)**

**Regulatory Plan:** This entry is Seq. No. 46 in part II of this issue of the **Federal Register**.

**RIN:** 0938–AR54

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**297. • REVISIONS TO PAYMENT POLICIES UNDER THE PHYSICIAN FEE SCHEDULE AND MEDICARE PART B FOR CY 2014 (CMS–1600–P)**

**Regulatory Plan:** This entry is Seq. No. 47 in part II of this issue of the **Federal Register**.

**RIN:** 0938–AR56

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**298. • PROSPECTIVE PAYMENT SYSTEM FOR FEDERALLY QUALIFIED HEALTH CENTERS (FQHCs) (CMS–1443–P) (SECTION 610 REVIEW)**

**Regulatory Plan:** This entry is Seq. No. 48 in part II of this issue of the **Federal Register**.

**RIN:** 0938–AR62

<b>Department of Health and Human Services (HHS)</b>	<b>Final Rule Stage</b>
<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>	

**299. COVERED OUTPATIENT DRUGS (CMS–2345–F) (SECTION 610 REVIEW)**

**Legal Authority:** PL 111– 48, secs 2501, 2503, 3301(d)(2); PL 111–152, sec 1206; PL 111–8 ,sec 221

**Abstract:** This final rule revises requirements pertaining to Medicaid reimbursement for covered outpatient drugs to implement provisions of the Affordable Care Act. This rule also revises other requirements related to covered outpatient drugs, including key aspects of Medicaid coverage, payment, and the drug rebate program.

**Timetable:**

Action	Date	FR Cite
NPRM	02/02/12	77 FR 5318
NPRM Comment Period End	04/02/12	
Final Action	08/00/13	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0938-AQ41

<b>Department of Health and Human Services (HHS)</b>	<b>Long-Term Actions</b>
<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>	

### **300. TRANSPARENCY REPORTS AND REPORTING OF PHYSICIAN OWNERSHIP OF INVESTMENT INTERESTS (CMS-5060-F)**

**Legal Authority:** PL 111-148, sec 6002

**Abstract:** This final rule requires applicable manufacturers of drugs, devices, biologicals, or medical supplies covered by Medicare, Medicaid, or CHIP to annually report to the Secretary certain payments or transfers of value provided to physicians or teaching hospitals (covered recipients). In addition, applicable manufacturers and applicable group purchasing organizations (GPOs) are required to annually report certain physician ownership or investment interests.

**Timetable:**

Action	Date	FR Cite
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NPRM	12/19/11	76 FR 78742
NPRM Comment Period End	02/17/12	
Final Action	12/00/14	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0938–AR33

<b>Department of Health and Human Services (HHS)</b>	<b>Completed Actions</b>
<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>	

**301. ADMINISTRATIVE SIMPLIFICATION: STANDARD UNIQUE IDENTIFIER FOR HEALTH PLANS AND ICD–10 COMPLIANCE DATE DELAY (CMS–0040–F) (COMPLETION OF A SECTION 610 REVIEW)**

**Legal Authority:** PL 111–148, sec 1104

**Abstract:** This rule implements provisions of the Affordable Care Act of 2010 under Administrative Simplification that establish a unique health plan identifier. This health plan identifier will be used to identify health plans in HIPAA standard transactions. The rule also finalizes a delay to comply with ICD-10.

**Timetable:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
NPRM	04/17/12	77 FR 22950

NPRM Comment Period End	05/17/12	
Final Action	09/05/12	77 FR 54664

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0938–AQ13

## **302. MEDICARE AND MEDICAID ELECTRONIC HEALTH RECORD INCENTIVE PROGRAM—STAGE 2 (CMS–0044–F)**

**Legal Authority:** PL 111–5 secs 4101, 4102, and 4202

**Abstract:** The final rule expands the criteria for meaningful use established for Stage 1 to advance the use of certified EHR technology by eligible professionals, eligible hospitals and critical access hospitals (CAHs). This rule is economically significant. The rule establishes the requirements for Stage 2, which encourages the use of continuous quality improvement at the point of care, and the exchange of information in the most structured format possible. For example, the electronic transmission of orders entered using computerized provider order entry, and the electronic transmission of diagnostic test results.

### **Timetable:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
NPRM	03/07/12	77 FR 13698
NPRM Comment Period End	05/07/12	
Final Action	09/04/12	77 FR 53967

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0938-AQ84

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**303. PROPOSED CHANGES TO HOSPITAL OPPTS AND CY 2013 PAYMENT RATES; ASC PAYMENT SYSTEM AND CY 2013 PAYMENT RATES (CMS-1589-FC) (COMPLETION OF A SECTION 610 REVIEW)**

**Legal Authority:** sec 1833 of the Social Security Act

**Abstract:** This final rule revises the Medicare hospital outpatient prospective payment system to implement applicable statutory requirements and changes arising from our continuing experience with this system. The rule also describes changes to the amounts and factors used to determine payment rates for services. In addition, the rule implements changes to the Ambulatory Surgical Center Payment System list of services and rates.

**Timetable:**

Action	Date	FR Cite
NPRM	07/30/12	77 FR 45061
NPRM Comment Period End	09/04/12	
Final Action	11/15/12	77 FR 68210

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0938-AR10

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**304. REVISIONS TO PAYMENT POLICIES UNDER THE PHYSICIAN FEE SCHEDULE AND PART B FOR CY 2013 (CMS–1590–FC) (COMPLETION OF A SECTION 610 REVIEW)**

**Legal Authority:** Social Security Act, secs 1102, 1871, 1848

**Abstract:** This annual final rule revises payment policies under the physician fee schedule, as well as other policy changes to payment under Part B. These changes are applicable to services furnished on or after January 1.

**Timetable:**

Action	Date	FR Cite
NPRM	07/30/12	77 FR 44721
NPRM Comment Period End	09/04/12	
Final Action	11/16/12	77 FR 68892

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0938–AR11

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**305. CHANGES TO THE HOSPITAL INPATIENT AND LONG–TERM CARE PROSPECTIVE PAYMENT SYSTEMS FOR FY 2013 (CMS–1588–F) (COMPLETION OF A SECTION 610 REVIEW)**

**Legal Authority:** sec 1886(d) of the Social Security Act, PL 111–148, secs 3025, 5506, 3005

**Abstract:** This annual final rule revises the Medicare hospital inpatient and long-term care hospital prospective payment systems for operating and capital-related costs. This rule implements changes arising from our continuing experience with these systems.

**Timetable:**

Action	Date	FR Cite
NPRM	05/11/12	77 FR 27870
NPRM Comment Period End	06/25/12	
Final Action	08/31/12	77 FR 53257

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0938-AR12

### **306. HOME HEALTH PROSPECTIVE PAYMENT SYSTEM RATE FOR CY 2013 (CMS-1358-F)**

#### **(COMPLETION OF A SECTION 610 REVIEW)**

**Legal Authority:** Social Security Act, secs 1102 and 1871; 42 USC 1302 and 42 USC 1395(hh); Social Security Act, sec 1895; 42 USC 1395(fff)

**Abstract:** This final rule updates the 60-day national episode rate based on the applicable home health market basket update and case-mix adjustment. It also updates the national per-visit rates used to calculate low utilization payment adjustments (LUPAs) and outlier payments under the Medicare prospective payment system for home health agencies. These changes are applicable to services furnished on or after January 1.

#### **Timetable:**

Action	Date	FR Cite
NPRM	07/13/12	77 FR 41547
NPRM Comment Period End	09/04/12	
Final Action	11/08/12	77 FR 67068

**Regulatory Flexibility Analysis Required:** No

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**RIN:** 0938-AR18

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